

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHNNY LEE HAMILTON,

Defendant.

CR 14-84-GF-BMM-JTJ

**FINDINGS AND
RECOMMENDATIONS**

I. Synopsis

Defendant Johnny Lee Hamilton (Hamilton) has been accused of violating a condition of his supervised release. Hamilton admitted the alleged violation. Hamilton's supervised release should be revoked. Hamilton should receive a custodial sentence of time served, with no supervised release to follow.

II. Status

Hamilton pleaded guilty to Burglary on September 1, 2015. (Doc. 59). The Court sentenced Hamilton to 18 months of custody, followed by 24 months of supervised release. (Doc. 65). Hamilton's current term of supervised release began on January 21, 2017. (Doc. 70 at 1).

Petition

The United States Probation Office filed a Petition on November 21, 2017, requesting that the Court revoke Hamilton's supervised release. (Doc. 70). The Petition alleges that Hamilton violated the conditions of his supervised release by failing to report to the United States Probation Office within 72 hours of his release from imprisonment. (Doc. 70 at 1-2). United States District Judge Brian Morris issued a warrant for Hamilton's arrest on November 21, 2017. (Doc. 71).

Initial appearance

Hamilton appeared before the undersigned for his initial appearance on December 4, 2018. (Doc. 75). Hamilton was represented by counsel. Hamilton stated that he had read the petition and that he understood the allegation. Hamilton waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

The Court conducted a revocation hearing on December 4, 2018. Hamilton admitted that he had violated the conditions of his supervised release by failing to report to the United States Probation Office within 72 hours of his release from imprisonment. The violation is serious and warrants revocation of Hamilton's supervised release.

Hamilton's violation is a Grade C violation. Hamilton's criminal history

category is II. Hamilton's underlying offense is a Class C felony. Hamilton could be incarcerated for up to 24 months. He could be ordered to remain on supervised release for up to 24 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 4 to 10 months. Both Hamilton and the government requested a term of custody of time served.

III. Analysis

Hamilton's supervised release should be revoked. Hamilton should receive a custodial sentence of time served, with no supervised release to follow. This sentence is sufficient but not greater than necessary.

IV. Conclusion

The Court informed Hamilton that the above sentence would be recommended to Judge Morris. The Court also informed Hamilton of his right to object to these Findings and Recommendations within 14 days of their issuance. The Court explained to Hamilton that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. Hamilton stated that he wished to waive his right to object to these Findings and Recommendations.

The Court **FINDS:**

That Johnny Lee Hamilton has violated the conditions of his supervised release by failing to report to the United States Probation Office within 72 hours of his release from imprisonment.

The Court **RECOMMENDS:**

That the District Court revoke Hamilton's supervised release and commit Hamilton to the custody of the United States Bureau of Prisons for a term of time served, with no supervised release to follow.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A district judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district judge, and may waive the right to appear and allocute before a district judge.

DATED this 5th day of December, 2018.



John Johnston
United States Magistrate Judge